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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Eleventh session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)*
OF THE 41st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 29 November 1994, at 10 a.m.

Chairperson: Mr. ALSTON
later: Mrs. BONOAN-DANDAN

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* The summary record of the second part (closed) of the meeting appears as document E/C.12/1994/SR.41/Add.1.

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS (agenda item 4) (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT

Austria (continued) (E/1990/6/Add.5 and E/C.12/1994/WP.12)

1. At the invitation of the Chairperson, Mr. Lang, Mr. Herdina, Mr. Rosenmayr, Mr. Ronovsky and Mr. Desser (Austria) took places at the Committee table.

2. Mr. LANG (Austria) said that the Austrian delegation was now in a position to reply to some of the questions regarding his Government's second periodic report on the rights covered by articles 6 to 9 and 13 to 15 of the Covenant which it had not been able to answer on the previous day.

3. Mr. ROSENMAYR (Austria) informed the Committee that the minimum monthly pension in Austria was 7,500 schillings for a single person and 10,700 schillings for a married couple, plus 799 schillings per child. Since monthly pensions were paid 14 times a year, the minimum annual pension was 105,000 schillings for a single person, 149,800 schillings for a married couple and 11,186 schillings per child. The minimum monthly pension for orphans was 2,801 schillings for orphans who had lost one parent, and 4,206 schillings for orphans who had lost both parents. The income earned over the best 15 years provided the basis for calculating pensions. If the pension earned under that arrangement was lower than the minimum pension, an additional sum was given.

4. In December 1992 there were some 820,000 persons who had reached retirement age, some 400,000 who had retired early or who were invalids, some 480,000 widows or widowers and some 55,000 orphans, making a total of some 1,755,000 pensioners in all.

5. Mr. SIMMA asked whether it was possible to lead a decent life on the minimum pension and what percentage of total pensioners had to live off minimum pensions.

6. Mr. ROSENMAYR (Austria) replied that he could not answer that question immediately. His delegation would try to obtain an answer by the end of the session.

7. Mrs. JIMÉNEZ BUTRAGUEÑO asked whether there was a maximum limit on pensions.

8. Mr. ROSENMAYR (Austria) replied that there was a maximum limit for persons who had been in private employment, but many of them had a private pension as well. There was no maximum limit for public employees, who received 80 per cent of what they had earned in the last year of their working life. It was possible to receive more than one pension: for example, a widower or widow would receive a retirement pension plus a widower's or widow's pension. Retired persons who were still economically active still

received their pension, but the pension would be reduced by 15 per cent if they earned 3,288 schillings or more per month. However, if a person had paid more than 260 monthly contributions into the pension scheme, the pension deduction would be reduced by 0.25 per cent for each additional month of contribution. Thus, a person who had contributed for 420 months would receive 100 per cent of his pension irrespective of any additional income.

9. Contracts between employers and employees were not affected by the fact that an employee was above a certain age. If a person worked for five years after the retirement age, his pension would be increased by 2 per cent; if he worked between 5 and 10 years after retirement, the pension increase would be 3 per cent, and if he worked for an additional 10 years, it would be 5 per cent. However, the basis for calculating the pension would still be the income earned over the best 15 years before reaching the retirement age. Public employees normally retired at 65, but if the Government decided that their services were indispensable, they could continue working up to the age of 70.

10. With regard to the possibility of persons working for enterprises employing less than five workers being discriminated against owing to their membership of a trade union, he explained that in Austrian law protection covered only enterprises with five or more workers, but collective agreements could include protection for workers in enterprises employing less than five.

11. Mr. RONOVSKY (Austria), referring to the financing of adult education in Austria, explained that, since adult education was organized along a number of different lines, different methods of financing were needed. In addition to the State, trade unions and churches financed courses and lectures for adults who were keen to learn. Other funds were provided by various organizations and enrolment fees were charged. The Federal Government was supporting adult education in 1994 with 116 million schillings. It was not known how much the provinces were providing, but around 60 per cent of the cost of adult education was covered by users' contributions. The Federal Government financed, primarily, structural improvement projects in areas like the employment of experts or the preparation of students for university entrance.

12. It was true that the allocations for some items in the budget of the Ministry of Education had declined. One reason was that responsibility for certain activities such as sports had been transferred to another ministry.

13. Mr. GRISSA asked whether the decline in expenditure on education reflected the lower number of students resulting from the fall in the birthrate and what percentage of high-school students went on to university.

14. Mr. RONOVSKY (Austria) replied that it was true that the fall in the birthrate had led to a decline in the number of pupils enrolled - a situation which had caused problems in providing employment for teachers. Some 60 to 70 per cent of high-school students went on to university.

15. Correcting the information which he had given on the previous day, he wished to make it clear that salaries of secondary school teachers were not

higher than those of senior employees in the private sector, although the earnings of some secondary school teachers were high because they gave extra lessons.

16. Mr. GRISSA noted that while there had been problems in providing employment for teachers, some teachers worked extra hours. Did the latter give their classes in school time or outside it?

17. Mr. RONOVSKY (Austria) explained that extra hours sometimes had to be worked because a colleague was sick. Moreover, teachers in some technical fields were in short supply and had the opportunity to give many extra lessons and earn more money.

18. Mr. ROSENMAYR (Austria) informed the Committee that at the end of 1991 the number of persons receiving minimum pensions had been 264,335 and in 1992 it had been 271,339, out of a total number of pensioners of some 1,700,000. The proportion of women receiving minimum pensions had been much higher than that of men.

19. Mr. SIMMA asked whether a recipient of a minimum pension not living in public housing could lead a decent life.

20. Mr. LANG (Austria) replied that he knew a number of persons in receipt of the minimum pension who could lead decent lives, but it was not easy for them. Many could do so as a result of family support, without which difficulties arose.

21. Mr. SIMMA asked whether it was true that couples receiving minimum pensions had to live together without marrying in order to obtain a minimum pension for each partner and thereby afford a decent standard of living.

22. Mr. LANG (Austria) replied that there might be cases in which that factor contributed to the formation of partnerships outside marriage, but it was not the major factor.

23. The CHAIRPERSON suggested that the Committee should move on to a discussion of Austria's implementation of article 15 of the Covenant.

24. Mr. CEAUSU thanked the Austrian delegation for its written reply to issue No. 23 of the list of the issues. He noted the information given in respect of some minority groups such as Slovenes, Croats and Hungarians. It seemed, however, that the law provided for the use of Slovene as a language of instruction within a specific area, whereas no limits were indicated for Croatian and Hungarian. According to the State Treaty of 1955, Austrian nationals of the Slovene and Croatian minorities in Carinthia, Burgenland and Styria should enjoy the same rights as other Austrian nationals, including the right to have organizations or to conduct meetings in their own language. Since the State Treaty included Styria as a province where the Slovene and Croatian languages could be used on an equal basis, he wondered why the law that applied to Carinthia was not extended to include Styria. To the Committee's question as to the extent to which ethnic minorities benefited from cultural subsidies, loans and other assistance (issue No. 24), the delegation had responded that 40 million schillings had been paid in 1994 as

subsidies in accordance with the Ethnic Minorities Act. That constituted an important financial aid to allow members of those minorities to participate in cultural life and preserve their cultural identities. Could the delegation provide a breakdown of how the amount had been allocated among each of the national minorities?

25. Mr. ALVAREZ VITA said that according to paragraph 248 of the report (E/1990/6/Add.5), the provinces could "conclude international treaties with the States bordering on Austria or with parts of those States". He asked the delegation to provide examples, as between South Tyrol and the German minority in the north of Italy, or between Burgenland and Hungary.

26. Mrs. JIMENEZ BUTRAGUEÑO asked about the existence of associations of elderly people and their influence on the country's cultural and social life. Were there, for example, associations of elderly university teachers which held meetings on different subjects, or non-governmental organizations for the elderly?

27. Mr. LANG (Austria), replying to the question about treaties between provinces and outside entities, said that the Federal Constitution had been amended to allow the provinces to conclude such treaties with legally binding force, but that no provinces had yet availed themselves of that opportunity. Since 1972, transboundary cooperation had existed in various forms. There were working groups which covered certain parts of the Tyrol and Vorarlberg, Italy, the Swiss cantons and the Bundesländer of Germany, which met once a year with local authorities and were based at Innsbruck, with a number of subcommittees. These groups existed under a "soft law" arrangement, primarily in the areas of environmental planning and protection, cultural exchanges and migrant workers. Similarly, there were working groups that covered the southern provinces of Carinthia and Styria and parts of Hungary, the former Yugoslavia and Italy, with headquarters in the capital of Carinthia and whose main activities concerned transport, communications, environmental protection and migrant workers. These associations were a very important element of the Government's active neighbour policy and comprised a sort of foreign policy conducted by the local and provincial authorities.

28. Mr. ROSENMAYR (Austria) said that in 1993, 36,477,000 schillings had been allocated as a subsidy for all ethnic minorities. That amount included 15 million schillings each for the Croats and the Slovenes, 3 million schillings for the Hungarians, 877,000 schillings for the Czech minorities, 400,000 schillings for the Slovaks and, for the first time, 2,200,000 schillings for the Roma Sinti. Those funds were used either for the organization of special events or for educational or leisure activities in private associations. There were historical reasons why the law on minority language education in the Slovene language applied only to certain areas, and why that limitation did not apply to minority language education for Croatian-speaking children. In 1958-1959, the law had determined the areas in which the Slovenes would receive education in their own language. However, the number of people speaking minority languages had declined, and therefore it was not really a problem that some minority members continued to live in areas where they were unable to receive that education. In all areas where

such education was needed, it was possible to receive it, although there were some differences of opinion between some members of the Slovene minority and the Federal Government

29. Regarding activities for elderly or retired persons, he said two very large pensioner's associations existed and that an advisory council for the elderly had recently been set up, comprising representatives of all the important associations of pensioners and elderly persons in the country. In addition, a special advisory body had been set up, under the general social security law, on pensions and retirement benefit payments and other social policy questions, which also included representatives of associations of elderly persons. Payments and other aid to the elderly comprised not only pensions but also payments to those in special need, such as the sick or disabled. Those services, which included the provision of meals, cleaning services and home care, were often organized at the community level. There was also a new law allowing people in need of special nursing care or private nursing to receive payments. Persons in need were entitled to those allowances, irrespective of whether they had been previously employed or not. While it was true that a number of people who received only minimal pensions were poor, more and more elderly people received pensions on a level that enabled them to engage in activities such as travel, schooling, language training and night courses. That was particularly important, given the growing proportion of the elderly.

30. Mr. LANG (Austria) said that the elderly were also entitled to special allowances for certified medical difficulties, such as special diets, in addition to the other retirement benefits they might receive.

31. Mr. RONOVSKY (Austria) said that the State Treaty of 1955 stipulated that Austrian citizens of the Slovene and Croatian minorities in Carinthia and Burgenland had the right to basic instruction in their own languages, but that the right to use the Slovene language must be granted in all areas covered by the Federal Act. In 1989, the Constitutional Court had none the less decided to amend that provision to state that citizens of the Slovene minority in Carinthia had the right to basic instruction in their own language, not only in certain areas but in all areas of Carinthia. However, the same decision distinguished between the autochthonous area of Slovenes and other areas of Carinthia. The guarantee in the autochthonous area applied to each pupil, meaning that if there was only one pupil, that was enough to guarantee the right to instruction in the pupil's own language. In areas of Carinthia other than the autochthonous areas, however, the right to basic instruction depended on local demand. In Burgenland, by contrast, there was no distinction made between autochthonous and other areas with respect to the guarantee under law of the right to instruction in one's own language.

32. The amount of the minimum pension in Austria had been rising by about 7 per cent a year, nearly twice the rise in average income of 4 per cent. While only those who had been employed for a sufficient amount of time and who had contributed to social insurance were covered by the schemes, that did not mean that those who had not paid into such schemes received no benefits, as those individuals still received social assistance from the provinces for subsistence, clothing, health care and disability. In other words, the provinces provided for persons not covered by the Federal scheme.

33. Mr. LANG (Austria) said that the reason there was no minority school system in Styria was simply that there were no minorities left there and there was no demand for schooling in any language other than German. Where the demand existed, the rules were complied with.

34. The CHAIRPERSON, speaking on behalf of the Committee, thanked the Austrian delegation for their very valuable contribution to the Committee's work.

35. Mr. Lang, Mr. Herdina, Mr. Rosenmayr, Mr. Ronovsky and Mr. Desser (Austria) withdrew.

ORGANIZATION OF WORK (agenda item 2) (continued)

36. The CHAIRPERSON said that the Committee should anticipate considering no more than five States each session, always including one State every year, or even every session, that had never reported. There were 12 countries on the list of reports received and pending consideration by the Committee. Assuming that the Committee considered five reports in May 1995, it might then convene a special session or schedule five of the remaining seven reports for May 1996, but in that case, five of the reports would be 18 months old and two would be two years old when they were considered and thus out of date. Moreover, new reports would continue to be received in the interim. The holding of a special session in November 1995 might therefore prove to be inevitable.

37. Mrs. Bonoan-Dandan took the Chair.

38. Mr. TEXIER agreed that the workload justified the convening of a special session in November 1995, but it might be advisable to ascertain whether the Economic and Social Council (ECOSOC) was likely to approve such a request.

39. Mr. SIMMA wondered whether the holding of a special session was the only choice open to the Committee. If the next two sessions were extended by one week, two additional reports could be covered, and the Committee could then handle all 12 on the list.

40. The CHAIRPERSON said that if the Committee convened a special session, the pre-sessional working group would have to remain for another week at the end.

41. Mr. TIKHONOV (Secretary of the Committee), speaking first on Mr. Texier's concern about the reaction of ECOSOC to a request for a special session, noted that given the backlog, such requests had always been granted in the past. Turning to the Chairperson's remarks, he pointed out that at the previous session, it had been decided that if two ordinary sessions were held, the pre-sessional working group was to meet prior to those sessions, and not afterwards. He reminded the members of the Committee that the next session was scheduled to be held from 1 to 19 May 1995 and that the pre-sessional working group for the session of May 1996 was scheduled to meet for one week from 20 November 1995.

42. All the reports on the list had been received after the May 1994 session, apart from Korea, which had requested a postponement. Given the backlog in translating the reports of States, reports that might be scheduled for the May 1995 session would have to be dealt with by the pre-sessional working group in their original languages. As reports would also need to be translated for the November 1995 pre-sessional group, it was difficult to see how translations of reports could also be ready for a special session. If the special session in November 1995 was approved, a pre-sessional working group would need to be scheduled in May 1995, and reports for that pre-sessional working group would not be available in translation. States had been submitting reports between 100 and 400 pages in length which could not possibly be translated in time. The Committee should consider asking States parties not to exceed a given number of pages. For example, there was no need for States parties to repeat information already contained in the core document.

43. Mr. SIMMA said that if the pre-sessional working group had to work without translated documents, it might be useful to know what documents were available in English or French only, because they would be accessible to a larger number of members than in Spanish, and then to decide on the composition of the pre-sessional working group, taking into consideration which members of the Committee were able to read the documents in the original language.

44. Although he personally found it extremely inconvenient, the Committee might not have any other recourse than to hold an extra session or to extend its regular sessions by one week. Otherwise, States would have to wait 18 months before their reports were considered, a situation which ran counter to the Committee's constant appeals for timely reporting.

45. Mr. WIMER ZAMBRANO said that the Committee should agree on the need for a special session but should then seek a longer-term solution, which in his view would consist in holding two regular sessions every year. If the Committee decided to do without translated documents for the pre-sessional working group, it should do so on the understanding that that was an exception, not the rule.

46. He agreed that the reports of States would need to be shorter; otherwise, the work of the Committee would come to a complete standstill.

47. Mr. KOUZNETSOV said that, like a number of previous speakers, he was in favour of asking ECOSOC to approve the convening of a second session in 1995 and the holding of two regular sessions every year. The Committee had always had enough work to fill two annual sessions. He supported the suggestion to appeal to States to limit the length of reports.

48. He was opposed to the proposal to extend the session by one week: there was a psychological barrier between requesting a leave of absence for three weeks and requesting one for four. Moreover, members were tired after three weeks, and an additional week would not increase their productivity.

49. Mr. TEXIER said that the Committee's practice should be brought into line with that of other treaty bodies, which also met twice a year. If the Committee decided to approve an additional protocol, it would mean even more work in the future. New areas of work were constantly being added, for example the discussion with NGOs on the first Monday of every session and the day of general discussion. As a result, less time was left for considering reports. He agreed with Mr. Kouznetsov that two regular meetings of three weeks each were better than one four-week meeting.

50. The CHAIRPERSON said that there appeared to be a consensus on requesting ECOSOC to approve two regular sessions. Such an arrangement would, however, have to commence in 1996, and the Committee would thus need to ask for a special session in November 1995.

51. If there was no objection, she would take it that the Committee wished to request the Economic and Social Council to approve the holding of a special session in November-December 1995.

52. It was so decided.

53. Mr. ALVAREZ VITA announced his resignation, with immediate effect, from the office of Vice-Chairperson of the Committee.

The public part of the meeting rose at 12.20 p.m.